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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MINNEAPOLIS, MN 55432-9924			EXAMINER COBANOGU, DILEK B	
			ART UNIT 3626	PAPER NUMBER
			MAIL DATE 09/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/935,019

**Applicant(s)**

LINDEN ET AL.

**Examiner**

Dilek B. Cobanoglu

**Art Unit**

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/3/2001, 4/7/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the amendment received on 06/19/2007.

Claims 4, 6, 7 and 10 have been amended. Claims 4-10 remain pending in this application.

### ***Claim Objections***

2. The claim objection of claim 7 due to the improper dependency has been withdrawn in light of the amendment made to this claim.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-7, 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bardy (U.S. Patent No. 6,270,457 B1) in view of de la Huerga et al. (hereinafter de la Huerga) (U.S. Patent No. 5,903,889).

A. Claim 4 has been amended now to recite an internet-based method for a service to enable a medical practitioner to access patient data and respond to a notification of an event relating to a condition of a remote patient having an implanted medical device, the method comprising:

- i. receiving data from the implanted medical device indicative of the event condition (Bardy; abstract, col. 3, lines 36-67);
- ii. alerting the medical practitioner to the event condition (Bardy; col. 3, lines 36-67, col. 10, lines 5-26, col. 15, lines 48-53); and
- iii. enabling the medical practitioner to execute secure access to a patient's database in a single sign-on action (Bardy; col. 8, lines 28-33, col. 10, lines 5-26, col. 15, lines 48-53) through a web-based site having secure sign-in access to the patient's database in accordance with a prescribed protocol.

- Bardy fails to expressly teach a web-based site to the patient's database. However, this feature is well known in the art, as evidenced by de la Huerga.

In particular, de la Huerga discloses a web-based site to the patient's database (de la Huerga; col. 3, lines 14-18, col. 3, line 44 to col. 4, line 16, col. 4, lines 55-61)

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by de la Huerga with the motivation of linking reports together as appropriate, so that care givers may more quickly and directly refer to relevant or related information (de la Huerga; col. 4, lines 10-13).

Examiner considers that reading an e-mail (as taught by Bardy) requires a single sign-on action.

B. As per claim 5, Bardy discloses the method of claim 4.

Bardy fails to expressly teach the authentication to a foreign web-site that is passed over to access the secure patient database. However, this feature is well known in the art, as evidenced by de la Huerga.

In particular, de la Huerga discloses the authentication to a foreign web-site that is passed over to access the secure patient database (de la Huerga; col. 3, line 55 to col. 4, line 5).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by de la Huerga with the motivation of linking reports together as appropriate, so that care givers may more quickly and directly refer to relevant or related information (de la Huerga; col. 4, lines 10-13).

C. Claim 6 has been amended now to recite an internet-based method for a service to enable a physician to access a rendered page about conditions of a patient generated at least in part from data collected from an implanted medical device within the patient, the method comprising:

- i. alerting the physician about the patient's condition (Bardy; col.10, lines 5-26, col. 15, lines 48-53); and
- ii. allowing the physician to access a patient's database (Bardy; col.14, lines 13-42) and wirelessly pull up a page so that the physician's

receipt of a report summarizing the patient's condition is confirmed,  
wherein physician access is through a web-based site having secure sign-  
in access to the patient's database is in accordance with a prescribed  
protocol.

Bardy fails to expressly teach wirelessly pull up a page so that the physician's receipt of a report summarizing the patient's condition is confirmed. However, this feature is well known in the art, as evidenced by de la Huerga.

In particular, de la Huerga discloses wirelessly pull up a page so that the physician's receipt of a report summarizing the patient's condition is confirmed (de la Huerga; col. 3, line 55 to col. 4, line 5). It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by de la Huerga with the motivation of linking reports together as appropriate, so that care givers may more quickly and directly refer to relevant or related information (de la Huerga; col. 4, lines 10-13).

- The obviousness of modifying the teaching of Bardy to include the a web-based site to the patient's database (as taught by de la Huerga) is as addressed above in the rejection of claim 4 and incorporated herein.

Also, Examiner considers that reading an e-mail (as taught by Bardy) requires a single sign-on action.

D. Claim 7 has been amended now to recite the method according to claim 6 wherein a patient management network includes the ability to push out the fully rendered page containing patient information and device information to wireless devices (Bardy; col. 6, line 61 to col. 7, line 4, col. 7, lines 53-59).

Bardy fails to expressly teach a website page display. However, this feature is well known in the art, as evidenced by de la Huerga. In particular, de la Huerga discloses a website page display (de la Huerga; col. 4, lines 55-59).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by de la Huerga with the motivation of linking reports together as appropriate, so that care givers may more quickly and directly refer to relevant or related information (de la Huerga; col. 4, lines 10-13).

E. As per claim 9, Bardy discloses the method according to claim 6 wherein the physician can transcribe a voice message back to the patient and can optionally copy the message to other professionals (Bardy; col.10, lines 5-26).

F. Claim 10 has been amended now to recite the method according to claim 9 wherein the patient is notified about the physician's message upon a patient's home connect receiving the message (Bardy; col.10, lines 5-26).

Art Unit: 3626

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bardy (U.S. Patent No. 6,270,457 B1) and Huerga et al. (hereinafter de la Huerga) (U.S. Patent No. 5,903,889) further in view of Barry et al. (hereinafter Barry) (U.S. Patent No. 6,081,786).

A. As per claim 8, Bardy and de la Huerga disclose the method according to claim 6.

Bardy and de la Huerga fail to expressly teach the Microsoft pocket PC technology. However, this feature is well known in the art, as evidenced by Barry.

In particular, Barry discloses the Microsoft pocket PC technology (Barry; col.9, lines 12-15).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Barry with the motivation of servers run the most recent version of knowledge base (Barry; col. 9, lines 15-17).

### ***Response to Arguments***

6. Applicant's arguments filed 06/19/2007 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. In response to Applicant's argument about Bardy does not teach that "the medical practitioner is able to execute secure access to a patient's database in a single sign-on action through a web-based site having secure sign-in access to the patient's database in accordance with a prescribed protocol" Examiner



respectfully submits that Bardy teaches a system and method for automated collection and analysis of patient information retrieved from an implantable medical device for remote patient care (Bardy; abstract and col. 3, lines 36-46), the collected measures set is stored into a patient care record for the individual patient within a database server organized to store one or more patient care records (Bardy; col. 3, lines 47-67), The retrieved telemetered signals are analyzed by the server system 16, ...the feedback is then provided back to the patient 11 through a variety means,...the feedback can be sent as an electronic mail message generated automatically by the server system 16 for transmission over the internetwork 15 (Bardy; col. 7, lines 41-59), the database server 34 organizes the patient care records in the database 17 and provides storage and access to information held in those records (Bardy; col. 8, lines 11-26) and simultaneous notifications can also be delivered to the patient's physician, hospital, or emergency medical services provider 212 using feedback means similar to that used to notify the patient,...the feedback could be by electronic mail (Bardy; col. 15, lines 48-52). Examiner considers that to access to the electronic mail, the patient and/or the physician need to sign-in to the system, and should provide a password or the like. Therefore Bardy teaches securely accessing to patient's records. Bardy fails to expressly teach a web-based site per se, even though Bardy teaches internetwork between the patient and medical device (or the physician as explained above), however de la Huerga teaches a web-based site to patient related files and records. The motivation to combine

Art Unit: 3626

the two references is the care givers may more quickly and directly refer to relevant or related information about the patient (de la Huerga; col. 4, lines 6-16).

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

Art Unit: 3626

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*DBC*

DBC

Art Unit 3626

08/29/2007

  
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